

JUL 12 2006

<b>CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)</b>			Docket No. 2001-0111-01
Applicant(s): Giovanardi et al.			
Application No. 09/916,360	Filing Date 7/26/01	Examiner C. Chou	Group Art Unit 2615
Invention: Method and Device for Noise Damping - Ntc of Appeal - 1 pg; Pre-Appeal Brief Request for Review Form - 1 pg; Pre-Appeal Brief Request - 5 pgs. <i>+ Facsimile Cover Sheet 1 pg.</i>			
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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 2001-0111-01	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" (37 CFR 1.8(a)) on July 12, 2006 Signature <u>Stephanie Sharrett</u> Typed or printed name <u>Stephanie Sharrett</u>		Application Number 09/916,360 Filed 7/26/01 First Named Inventor Giovanardi et al. Art Unit 2615 Examiner C. Chau	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. 44,363 Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34 Registration number if acting under 37 CFR 1.34 _____		Signature <u>Wesley Strickland</u> Typed or printed name <u>Wesley Strickland</u> Telephone number <u>(858) 385-7185</u> Date <u>July 12, 2006</u>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
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USSN 09/916,360**CERTIFICATE OF FACSIMILE TRANSMISSION**

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Stephanie Sharrett  
(Name)

(Signature)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Giovanardi et al.

Serial No.: 09/916,360

Filing Date: 7/26/01

Title: METHOD AND DEVICE FOR NOISE  
DAMPING

Examiner: C. Chau

Group Art Unit: 2615

Conf. No.: 7591

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**PRE-APPEAL BRIEF REQUEST FOR REVIEW****Reasons for Request**

Applicant hereby maintains and expands arguments presented in Applicant's response to the Examiner's Office Action mailed April 20, 2005. In particular, Applicant respectfully asserts that the applied references do not identically disclose each and every limitation of the independent claims, nor their dependent claims, as required to factually anticipate the independent claims as meant under 35 U.S.C. § 102. For at least this reason, the other claims which depend from these independent claims are not rendered obvious under 35 U.S.C. § 103 because the various combinations of references proposed by the Examiner do not teach or suggest all the limitations recited in the dependent claims which are inherited from the independent claims.

As currently pending, independent claim 1 recites a device for reducing vibration in a section of material comprising an active damper located at a first distance

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from the material, a passive damper located at a second distance from the material, wherein the second distance is greater than the first distance, and a constraining layer in contact with the passive damper. Claim 18 recites a constraining means in contact with the passive damping means. In short, Applicant contends that Fuller et al. fail to teach or suggest a constraining layer in contact with the passive damper.

The Examiner has rejected claims 1, 3, 6, 9, 12 and 18 under 35 U.S.C. § 102(e) as being anticipated by Fuller et al. The Examiner's rejection rests on his assertion that the "several thin sheets of lead stacked on top of each other" that are described as a distributed mass layer in the Fuller et al. reference constitute *both* a passive damper *and* a constraining layer in contact with the passive damper. Applicant respectfully disagrees. In support of his proposition, the Examiner has indicated that Applicant has not clearly defined a constraining layer. Again, Applicant respectfully disagrees. The concept of a constraining layer is adequately explained in the specification of the present application such that a person of ordinary skill in the art would clearly understand its meaning. Moreover, all of the references cited by the Examiner, i.e. Fuller, Bicos and Baz all disclose and discuss the constraining layer concept, thus, further buttressing the fact that the meaning of the terms "constraining layer" and "constrained layer" have established meanings that are clear to those skilled in the art. With this established meaning, it is clear that "several thin sheets of lead stacked on top of each other" do not constitute a constraining layer in contact with a passive damper. Applicant further respectfully contends that it is incorrect for the Examiner to disregard the word "constraining" in claims 1 and 18 as being unclear, and instead, apply a reference that simply has a "layer" as applicable prior art. In short, Attorney for Applicant respectfully asserts that several thin sheets of lead stacked on top of each other do not identically disclose a passive damper *and* a constraining layer in contact with the passive damper as recited in the claims.

Because Fuller et al. fail to teach or suggest a constraining layer in contact with a passive damper as recited in claim 1 or a constraining means in contact with the passive damping means as recited in claim 18, Applicant respectfully contends that independent claims 1 and 18 are not anticipated by Fuller et al. nor are claims 3, 6, 9, and 12 which depend from claim 1. In light of these arguments, the Panel of Examiners is respectfully

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requested to withdraw the rejection of claims 1, 3, 6, 9, 12, and 18 under 35 U.S.C. § 102(e).

The Examiner has also rejected claims 1, 7, 9, 15 and 18 under 35 U.S.C. § 102(b) as being anticipated by Bicos and claims 1, 7, 9, 15 and 18 under 35 U.S.C. § 102(b) as being anticipated by Baz. Independent claim 1 recites a device for reducing vibration in a section of material comprising an active damper located at a first distance from the material, a passive damper located at a second distance from the material, wherein the second distance is greater than the first distance, and a constraining layer in contact with the passive damper. In a somewhat similar manner, independent claim 15 recites an actuator attached to the surface of the material comprising at least one piezoelectric element, a viscoelastic portion, and a constraining layer having a higher stiffness than the viscoelastic portion, wherein the device functions to reduce noise by the actuator damping specific sound modes. Also somewhat similar, independent claim 18, recites the step of bonding an actuator having active damping means, passive damping means and a constraining means in contact with the passive damping means to a desired portion of a section of material. Thus, all currently pending independent claims (i.e. claims 1, 15 and 18) require a constraining layer or means in combination with either an active damper (claim 1), an actuator damping specific sound modes (claim 15) or an active damping means (claim 18).

No such structure or cooperation of structure is disclosed by the cited references (i.e. Bicos or Baz). In particular, with regard to independent claims 1 and 18, both Bicos and Baz fail to teach or suggest an active damper or active damper means in combination with a constraining layer or constraining means. While both Bicos and Baz include a piezoelectric material that is actively controlled (material 50 in Baz and piezoelectric element 12 in Bicos), such materials operate as a constraining layer. Furthermore, in stating the rejection the Examiner identifies, as analogous to the recited active damper, a piezoelectric material that operates solely as a sensor to generate an output signal for controlling a constraining layer (sensor 40 in Baz and piezoelectric element 14 in Bicos). Neither of these structures, (i.e. the sensor 40 in Baz or the piezoelectric element 14 in Bicos) perform an active damping function, and, as such, do not constitute an active damper or active damper means as meant to one of ordinary skill in this field.

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Thus, neither reference discloses an active damper (claim 1), or an active damping means (claim 18) in addition to a constraining layer or means as recited in the claims. Nor do the sensor 40 in Baz or piezoelectric element 14 in Bicos constitute an actuator damping specific sound modes (as recited in claim 15) since the sensors, in each case, merely output a control signal and do not actually perform a damping function in general or damping of specific modes in particular.

Thus, Applicant respectfully contends that independent claims 1, 15, and 18 (and their dependent claims) are not anticipated by either Baz or Bicos. In light of these arguments, the Panel of Examiners is respectfully requested to withdraw the rejection of claims 1, 7, 9, 15, and 18 based on Bicos and claims 1, 7, 8, 9, 15, and 18 based on Baz.

Claims 7, 8 and 11 stand rejected under 35 U.S.C. § 103 as unpatentable over one or more combination involving Fuller et al. or Bicos in view of additional references. In each case, the additional reference is included as teaching or suggesting the specific limitation of a particular dependent claim while the primary reference (Fuller or Bicos) is applied to the limitations from base claim 1 as explained in the earlier rejections. For the reasons explained above with respect to claim 1, Applicant urges that neither Bicos nor Fuller et al. teach or suggest all the features recited in claim 1 and, therefore, even in combination with the various other references, no such combination teaches or suggests all the limitations in claims 7, 8 and 11. In light of these arguments, the Panel of Examiners is respectfully requested to withdraw the rejection of claims 7, 8 and 11 under 35 U.S.C. § 103.

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Applicant authorizes the Commissioner to charge our Deposit Account No. 03-4060 in the amount of \$500.00 for the Notice of Appeal fee. Applicant does not believe that any other fees are due for the filing of this Pre-Appeal Brief Request for Review. In the event that any fees are due by this filing, Applicants hereby authorize the Commissioner to charge or credit the Deposit Account of Cymer, Inc., Deposit Account 03-4060 for any such fees.

Respectfully submitted,

  
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July 12, 2006  
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